

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICARDO MARTINEZ,

Plaintiff,

v.

DR. ANDREW ZEPP, *et al.*,

Defendants.

No. 1:20-cv-00646-DAD-JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS, AND DISMISSING
ACTION WITHOUT PREJUDICE

(Doc. Nos. 9, 11, 14)

Plaintiff Ricardo Martinez is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 15, 2020, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's motion to proceed *in forma pauperis* (Doc. No. 9) be denied because he has accumulated more than three "strike" dismissals under 28 U.S.C. § 1915(g) and his complaint failed to contain allegations showing that he is in imminent danger of serious physical injury. (Doc. No. 11 at 2.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days of service. (*Id.* at 2–3.)

1 Plaintiff filed timely objections and a second application to proceed *in forma pauperis* on
2 June 2, 2020. (Doc. Nos. 13, 14.) In his objections, plaintiff merely reiterates the allegations
3 contained in his complaint. (Doc. No. 13 at 2–3.) He fails, however, to address the magistrate
4 judge’s findings about his prior strike dismissals and his failure to show imminent danger of
5 serious physical injury. Similarly, his second application to proceed *in forma pauperis* merely
6 replicates the information contained in his first application to proceed *in forma pauperis*. (See
7 Doc. Nos. 9, 14.)

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
9 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff’s
10 objections, the court concludes that the findings and recommendations are supported by the
11 record and proper analysis.

12 Accordingly:

- 13 1. The findings and recommendations issued on May 15, 2020 (Doc. No. 11) are
14 adopted in full;
- 15 2. Plaintiff’s motions to proceed *in forma pauperis* (Doc. Nos. 9, 14) are denied;
- 16 3. This action is dismissed without prejudice to refiling upon prepayment of the filing
17 fee; and,
- 18 4. The Clerk of the Court is directed to close this case.

19 IT IS SO ORDERED.

20 Dated: June 8, 2020


21 UNITED STATES DISTRICT JUDGE

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